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SERVICE DATE – MARCH 23, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21081¹

LARRY FERGUSON D/B/A TRANSOUTH MOTORCOACH, LLC—
ACQUISITION OF CONTROL—C & H BUS LINES, INC.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On February 27, 2018, Larry Ferguson d/b/a TranSouth Motorcoach, LLC (TranSouth) filed an application under 49 U.S.C. § 14303 to acquire C & H Bus Lines, Inc. (C&H). TranSouth and C&H are each federally registered, passenger motor carriers incorporated and registered in Georgia. The Board is tentatively approving and authorizing the transaction and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules at 49 C.F.R. §§ 1182.5 and 1182.8.

DATES: Comments must be filed by May 10, 2018. Applicant may file a reply by May 25, 2018. If no opposing comments are filed by May 10, 2018, this notice shall be effective on May 11, 2018.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21081 to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of comments to: J. Hatcher Graham, J. Hatcher Graham, P.C., 303 Pheasant Ridge, Warner Robins, GA 31088.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 245-0368. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

SUPPLEMENTARY INFORMATION: TranSouth is a motor carrier licensed by the Federal Motor Carrier Safety Administration (FMCSA) (MC-465826) that provides motor carrier passenger services in Georgia. TranSouth is wholly owned by Larry Ferguson and operates eight to nine passenger vehicles and utilizes 18 drivers. (Appl. 3, Ex. 1, Motor Carrier Identification Report.)

¹ Concurrent with its application, TranSouth also filed, in Docket No. MCF 21081 TA, a request under 49 U.S.C. § 14303(i) to operate the assets to be acquired on an interim basis pending approval of the acquisition. The Board addresses that request in a separate decision issued concurrently with this decision.

C&H is also a federally-registered motor carrier of passengers (MC-114957). In providing its passenger services to the public, C&H utilizes 18-20 passenger vehicles and 22 drivers. (Appl. 3, Ex. 2, FMCSA Safety Measurement System Data.) The stock in C&H is owned by members of the Cullens family: George L. Cullens, Sr.; George L. Cullens, Jr.; Edna F. Cullens; and Jerri J. Cullens. (Appl. 3, Ex. 3, Signatures and Certifications.)²

TranSouth states that, under the proposed transaction, all of the outstanding stock in C&H would be acquired by Larry Ferguson. According to TranSouth, the parties have signed a Letter of Intent, deposited earnest money, and drafted and signed a Stock Purchase Agreement. TranSouth further states that final closing will occur upon interim or final Board approval.³

Under 49 U.S.C. § 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. TranSouth has submitted the information required by 49 C.F.R. § 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. § 14303(b) and a statement, pursuant to 49 U.S.C. § 14303(g), that TranSouth and C&H exceeded \$2 million in gross operating revenues for the preceding 12-month period.⁴

TranSouth states that the proposed transaction would not have a material, detrimental impact on the adequacy of transportation services to the public but rather would improve services to the public. According to TranSouth, the proposed transaction would allow for more efficient and productive management, modernizations of both rolling stock and maintenance equipment, and consolidation of debt structures. TranSouth states that the transaction would result in better service and savings in fares to the public. Also, TranSouth states that the proposed transaction would allow both companies to serve and expand their customer bases, thereby increasing the number of their employees in operations and maintenance.

² Although not mentioned in the application, both TranSouth and C&H are listed as “interstate” passenger carriers in their FMCSA registrations.

³ As noted in Larry Ferguson—Acquisition of Control—C & H Bus Lines, Inc., MCF 21081 TA, concurrently served with this decision, the Board reminds TranSouth that a grant of interim approval is temporary, and that final closing cannot occur until final Board approval. The grant of interim approval permits TranSouth only to operate the property of C&H until final Board approval.

⁴ Parties must certify that the transaction involves carriers whose aggregate gross operating revenues exceed \$2 million, as required under 49 C.F.R. § 1182.2(a)(5).

TranSouth further asserts that the proposed transaction would not adversely affect competition or the public interest. According to TranSouth, its and C&H's service areas include the following: the entire Middle Georgia area; the cities of Macon, Savannah, Valdosta, Cordele, Forsyth, and Dublin; and the southern area of suburban Atlanta (the Service Area). TranSouth states that competition is robust with at least eight other companies providing motor coach passenger services within a 50-mile radius of the Service Area. Also, TranSouth states that the Atlanta metropolitan area is within 80 miles of the Service Area and has numerous entities that compete with both TranSouth and C&H.

On the basis of the application, the Board finds that the proposed acquisition of control is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 C.F.R. § 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.
2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.
3. This notice will be effective May 11, 2018, unless opposing comments are filed by May 10, 2018.
4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

Decided: March 20, 2018.

By the Board, Board Members Begeman and Miller.